

CHAPTER 25

GENERAL PROVISIONS

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25.01 RULES OF CONSTRUCTION. In the construction of this Code of general ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ordinances:

- (1) **WISCONSIN STATUTES.** Unless otherwise expressly stated in these Ordinances, the term "Wisconsin Statutes" or "Wis. Stats." whenever used in this Code shall mean the most recently published edition of the Wisconsin Statutes and shall further include any session laws enacted but not yet printed in the published releases of the State Statutes. (1805 04/11/95)
- (2) **GENDER: SINGULAR AND PLURAL.** Every word in this Code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.
- (3) **PERSON.** The word "person" extends and applies to natural persons, firms, corporations, associations, limited liability companies, joint ventures, partnerships, or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable. (1805 04/11/95)
- (4) **ACTS BY AGENTS.** When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requisition shall be construed

to include all such acts when done by an authorized agent.

- (5) **ADMINISTRATIVE CODE.** Unless otherwise expressly stated in this Code, the term "Administrative Code" or "Wisconsin Administrative Code", or "Adm. Code" or "Wis. Adm. Code" whenever used in this Code shall mean the most recently published release of the Wisconsin Administrative Code. (1805 04/11/95)

25.02 CONFLICT AND SEPARABILITY.

- (1) **CONFLICT OF CODE PROVISIONS.** If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
- (2) **SEPARABILITY OF CODE PROVISIONS.** If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Mayor and Council of the City of Baraboo hereby declare that they would have passed this Code and each section, subsection, sentence, clauses, phrases or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

25.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes and Wis. Adm. Code, or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if

fully set forth herein and the City Clerk is hereby directed and required to file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS.

- (1) **GENERAL PENALTY.** Except as provided in sub. (2) of this section, whenever so provided in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty which shall be as follows:
 - (a) First Offense, Penalty. Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs and assessments as provided in sub-section (c) hereof, and, in default of payment of such forfeiture, costs and assessments, shall be imprisoned in the County Jail until said forfeiture, costs and assessments are paid, but not exceeding 90 days.
 - (b) Second Offense, Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500 for each such offense, together with the costs and assessments as provided in sub-section (c) hereof, and, in default of payment of such forfeiture, costs and assessments, shall be imprisoned in the County Jail until said forfeiture, costs and assessments are paid, but not exceeding 6 months.
 - (c) Court Costs and Assessments. Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, be subject to the payment of the following costs and assessments, in addition to the payment of a forfeiture, to the extent allowed by the Court:
 1. Clerk of Court fee imposed by §814.63, Wis. Stats.
 2. Penalty assessment imposed by §757.056, Wis. Stats.
 3. Jail assessment imposed by §302.46(1), Wis. Stats.
 4. Automation fee imposed by §814.635, Wis. Stats.
 5. Clerk of Court fee imposed on City by §814.63(2), Wis. Stats.

6. Restitution as provided in §66.0114, Wis. Stats. (1667 11/92)
7. Driver improvement surcharge imposed by §346.655, Wis. Stats.

- (2) **PENALTY FOR MINORS.** In the event proceedings are commenced against children aged 16 or older for violations of Ch. 7 of this Code, or children 12 years of age or older for other violations of this Code except Ch. 7, the provisions of §§938.12, 938.125, and 938.17, Wis. Stats. shall be applicable. (1799 03/28/95)
- (3) **CONTINUED VIOLATIONS.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (4) **JUDGMENT OF THE COURT.** Whenever the Court finds a defendant guilty of a violation of this Code, the Court shall render judgment as provided in §66.0114, Wis. Stats. and the Court may further, to the extent allowed by law, issue an execution against the property of the defendant for the payment of any forfeiture, Court costs, assessments and restitution. (1668 11/92)

25.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the Council of the City of Baraboo are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

- (1) The issuance of corporate bonds and notes of the City of Baraboo of whatever name or description.
- (2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- (3) The fixing of salaries of public officials and employees.
- (4) Rights, licenses or franchises or the creation of any contract with the City of Baraboo.
- (5) The lighting of streets and alleys.
- (6) The annexation of territory to the City of Baraboo.
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (9) Tax and special assessment levies.
- (10) Release of persons, firms or corporations from liability.
- (11) Construction of any public works.
- (12) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (13) Budget ordinances, resolutions and actions.

- 25.06 EFFECT OF REPEALS.** The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Council shall not:
- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
 - (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the City.
 - (3) Affect any offense committed or penalty or forfeiture incurred previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
 - (4) Affect any prosecution for any offense or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code, and shall be, in all respects, subject to the provisions of this Code.
- 25.07 TITLE: EFFECTIVE DATE: CITATION.** These ordinances shall be known as the "Municipal Code of Baraboo, Wisconsin" and shall take effect from and after passage and publication as provided in §66.0103, Wis. Stats. All references thereto shall be cited by section number (Example: §13.06, Municipal Code of Baraboo, Wisconsin).
- 25.08 KEEPING CODE CURRENT: CITY ATTORNEY'S AMENDMENTS.** As each ordinance or resolution affecting this Code becomes effective, the City Clerk shall enter the ordinance into this Code. The Clerk shall further record in the Code the ordinance number and date of adoption of new ordinances and this data shall be forwarded to the City Attorney. The City Attorney shall make no substantive changes to such ordinances and resolutions, but may renumber, rearrange and edit them without first submitting them to the Council; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Code affected thereby.

- 25.09 INCORPORATE ADOPTION OF AMENDMENTS TO STATE STATUTES AND ADM. CODE.** (1594 03/12/91) Except as otherwise specifically provided in this Code, whenever the provisions of the Wisconsin Statutes and/or the Wisconsin Administrative Code are adopted and by reference made a part of this Code, any future amendments, revisions, renumbering or modifications of the adopted Statutes or the Administrative Code are incorporated herein by reference and are intended to be made a part of this Code as though fully set forth herein.

- 25.10 BOND SCHEDULE FOR ORDINANCE VIOLATIONS.** (1700 08/17/93) (2485 03/13/2018)

- (1) STATE UNIFORM DEPOSIT SCHEDULE ADOPTED. Except as otherwise specifically provided in this section, the City hereby adopts by reference the current State of Wisconsin Revised Uniform State Traffic Deposit Schedule and Alcohol Beverages, Tobacco and Drug Paraphernalia Violations Deposit Schedule. Any future amendments, revisions or modifications of these schedules are intended to be made a part of this section in order to secure uniform statewide regulation of traffic, alcohol beverage, tobacco and drug paraphernalia violations. The City further adopts the Court costs and assessments as provided in §25.04(1)(c) of this Code and any future amendments, revisions or modifications of the statutory court costs, penalty assessment, jail assessment, automation fee, and any other costs or assessment imposed by State statutes for violations of City ordinance shall, to the extent applicable, be automatically incorporated into this section and made a part hereof in order to secure uniformity between the City's deposit schedule and the schedule imposed by State statute. (1844 11/28/95)
- (2) BOND WHERE CONTINUING VIOLATION CHARGED. Whenever an ordinance violation is charged as a continuing offense with each day constituting a separate offense, the City attorney shall be consulted prior to the commencement of a civil forfeiture action as provided by law and shall determine the appropriate bond amount.
- (3) BOND SCHEDULE. The following bond schedule shall be followed for all City of Baraboo ordinance violations. The bond amount set forth below does not include statutory court costs, penalty assessment, jail assessment, automation fee, or any other costs imposed by Wisconsin Statutes: (1844 11/28/95, 2072 01/22/2002)
 - (a) Except as otherwise specified in this schedule, the standard bond for violation of a City ordinance shall be \$60.00. (1800 03/28/95)

- (b) Chapter 4 - Police Department - Violations: standard bond.
- (c) Chapter 5 - Fire Department - Violations: \$100.00.
- (d) Chapter 7 - Traffic Code - Violations: Whenever a violation is listed in the State of Wisconsin Revised Uniform Traffic Deposit Schedule the bond amount stated in the Schedule shall apply. The bond amount for violations not listed in the Schedule shall be as follows: (1844 11/28/95)
1. Parking violations shall be as provided in Chapter 7 of this Code.
 2. Handicap parking violations contrary to §7.09(19)(f) of this Code: Standard bond amount.
 3. Operating a motor vehicle while intoxicated violations: The City adopts by reference the current OMVWI Sentencing Guidelines for the Sixth Judicial District. Any future amendments, revisions or modifications of these Guidelines are intended to be made a part of this Section in order to secure uniform countywide regulation of OMVWI violations.
 4. Skateboard, roller skates, scooters, and similar play vehicle violations contrary to §7.17 after first warning: \$10.00. (2151 04/27/04)
- (e) Chapter 8 - Public Works - Violations: (2181 02/08/2005)
Snow and ice removal violations:
- First violation - \$20.00.
 - Second violation during same winter season (i.e. from December 1 to March 15) - \$40.00.
- (f) Chapter 9 - Orderly Conduct - Violations: Standard bond amount, except as follows (Attorney Note: Juveniles under the age of 14 are not to be assessed costs, pursuant to §938.37, Wis. Stat.): (1844 11/28/95) (2485 3/13/2018)
1. Animal at large violations where animal is a dog or cat contrary to §9.09 of this Code. See Bond under §25.10(3)(i)4 of this Code.
 2. Curfew violations contrary to §9.16 Code: \$10.00.
 3. Tobacco product/cigarette violations by person under 18
- contrary to §9.21(2) Code: \$10.00.
4. Tobacco product/cigarette violations by adult contrary to §9.21(5) Code: Standard bond.
 5. Possession of drug paraphernalia violations by person under 18 contrary to §9.23 Code:
 - First violation - \$25.00.
 - Second violation - \$50.00.
 - Third violation - \$100.00.
 6. Unlawful trespass violations contrary to §9.25 Code: (2063 08/01/2001)
 - First violation – standard bond amount.
 - Second violation within 12 months - \$150.00.
 - Third and subsequent violations within 12 months - \$300.00.
 7. Unlawful Keeping or Possession of Prohibited Reptiles, Insects, Crocodilians, Spiders, Wild Animals, and Other Creatures (See §9.10 Code) - \$150.00 plus impoundment and identification costs. (2079 07/23/02)
 8. Truancy Violation contrary to §9.16(A):
 - \$50.00 for first offense,
 - \$100.00 for subsequent offenses committed within 12 months of previous violation. (Attorney Note: Forfeiture is subject to §938.342(1d)(b), Wis. Stat.).
 9. Habitual Truancy contrary to §9.16(B):
 - \$100.00 for first offense.
 - \$250.00 for subsequent offenses committed within 12 months of previous violation. (Attorney Note: Forfeiture is subject to §938.342(1g)(h), Wis. Stat.).
- (g) Chapter 10 - Public Nuisances - Violations: Standard bond amount, except as follows: (2528 09/27/2019)
1. Chronic Nuisance Premises violation contrary to §10.05(A):
 - First violation, as defined by §10.05(A)(8)(b) - \$500.00;
 - Subsequent violations, as defined by §10.05(A)(8)(b)- \$1,000.00

(h) Chapter 11 - Health and Sanitation - Violations: Standard bond amount, except as follows:

1. Solid waste and recyclable violation contrary to §11.07:
 - First violation - \$50.00;
 - Second violation within one year, as defined by §11.04(f) - \$100.00;
 - Third violation within one year, as defined by §11.04(f) - \$500.00.
2. Illegal Dumping contrary to §11.08:
 - First violation - \$100,
 - Second violation within one year, as defined by §11.04(f) - \$250.00.
 - Third and subsequent violations within one year, as defined by §11.04(f) - \$500.00.

(i) Chapter 12 - Licenses and Permits - Violations:

1. Alcohol beverage violations: Whenever a violation is listed in the State of Wisconsin Revised Alcohol Beverages Violations Deposit Schedule, the bond amount stated in the Schedule shall apply. The bond for violations not set forth in the schedule shall be as follows:
 - a. Adults selling or furnishing alcohol beverages to underage person (§12.02(1) Code; §125.07(1)(a) Stats.)
 - First violation \$250.00
 - Second violation W/In 1 Yr. \$300.00.
 - Third violation W/In 1 Yr. and subsequent Yr. \$500.00.
 - b. Tavern owner responsibility - underage person on premises where alcohol beverages are sold when not accompanied by parent or guardian (12.02(1) Code; §125.07(3) Stats.)
 - First violation - \$250.00.
 - Second violation W/In 1 Yr. - \$300.00.
 - Third violation W/In 1 Yr. and subsequent Yr. - \$500.00.
2. For failure to obtain the following required licenses: standard bond amount:

- a. Bartender and manager alcohol beverages licenses. (§12.02, Code)
- b. Pawnbrokers, secondhand article dealers and jewelry dealers. (§12.03, Code)
- c. Cigarette license. (§12.04, Code)
- d. Entertainment license. (§12.05, Code)
- e. Auto racing license. (§12.05, Code)
- f. Direct sellers, transient merchants and solicitors. (§12.07, Code)
- g. Junk dealers licenses. (§12.09, Code)
- h. Garage, yard and rummage sales licenses. (§12.10, Code)
- i. Taxicabs licenses. (§12.11, Code)
- j. Mobile homes and mobile home parks licenses. (§12.12, Code)

(j) Chapter 13 - Municipal Utilities - Violations: =

1. Establishing or permitting cross connections: (§13.11, Code) - \$100.00.
2. Failure to abandon private well (§13.12, Code) - \$100.00.
3. Opening, injuring, or meddling with any hydrant, tap, box, etc. without authority: (§13.13, Code) - \$100.00.
4. Installing booster pump on service line: (§13.14, Code - \$100.00.
5. Failure to obtain permit or to properly install sewer lateral: (§13.32, Code) - \$100.00.
6. Use of public sewers violations (§13.30 Code) - \$500.00.
7. Unlawful discharge into sanitary sewer (§13.33 Code) - \$500.00.

(k) Chapter 14 - Building Code - Violations: Failure to obtain required permit: 150% of permit fee but not less than standard bond amount.

(l) Chapter 15 - Plumbing Code - Violations: Failure to obtain required permit: 150% of permit fee but not less than standard bond amount.

(m) Chapter 16 - Electrical Code - Violations: Failure to obtain required permit: 150% of permit fee but not less than standard bond amount.

(n) Chapter 17 - Zoning - Violations: Standard bond amount.

- (o) Chapter 18 - Subdivision & Platting-Violations: Standard bond amount.
- (p) Chapter 19 - Park Regulations - Violations: \$100.00 except as follows:
 - 1. Consumption of beer or wine in Pierce Park when concession stand open (§19.11 Code): \$10.
 - 2. Consumption of alcohol beverage in Lower Ochsner and Attridge Parks during Zoo Crew Fest except as authorized by the Park and Recreation Commission Lease: (§19.12 Code): \$10.
- (q) Chapter 20 - Fair Housing - Violations: \$100.00
- (r) Chapter 29 - Animals - Violations: Standard bond amount except as follows: (2556 08/04/2020)
 - 1. Failure to obtain required dog or cat license: \$30.00. (2072 01/22/2002)
 - 2. Dog or cat at large violations: (§12.13(7)(c), & 9.09 Code) (1719 01/18/94, 2072 01/22/2002, 2534 10/29/2019)
 - First Offense: \$10.00.
 - Second Offense by same person within 12 months of occurrence date of first offense: \$50.00.
 - Third Offense by same person within 12 months of occurrence dates of two prior offenses: \$75.00.
 - Fourth and subsequent violation by same person within 12 months of occurrence dates of prior offenses: \$80.00.
 - 3. Illegal sale or transfer of vicious animal; failure to license vicious animal, or other violation of 12.13(18): \$100.00.
 - 4. Cruelty to Animals: \$150.
- (2) A person is concerned in the commission of an ordinance violation if the person:
 - (a) Directly commits the violation.
 - (b) Intentionally aids and abets the commission of it; or
 - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such a party is also concerned in the commission of any other ordinance violation which is committed in pursuance of the intended violation and which, under the circumstances, is a natural and probable consequence of the intended ordinance violation. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the ordinance violation be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the ordinance violation so as to allow the others also to withdraw.

25.11 PARTY TO ORDINANCE VIOLATION

(2081 04/16/2002)

- (1) Whomever is concerned in the commission of a violation of the Municipal Code of Baraboo, Wisconsin, is a principal and may be charged with and convicted of the commission of the ordinance violation although the person did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other degree of the ordinance violation or of some other ordinance violation based on the same act.